

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
FT. MYERS DIVISION

In re

Douglas Dixon and JoAnn Collison

CHAPTER 13  
CASE NO. 9:17-bk-07370-FMD

Debtor(s)  
\_\_\_\_\_ /

**RESPONSE BY FORETHOUGHT LIFE INSURANCE COMPANY TO DEBTOR(S)'**  
**OBJECTION TO CLAIM NO. 2 (DOC. NO. 106)**

FORETHOUGHT LIFE INSURANCE COMPANY ("Creditor"), responds to the Objection to Claim No. 2 (Doc. No. 106) filed by the Debtor<sup>1</sup> and states:

1. On October 2, 2017, Creditor filed its Proof of Claim (Claim No. 2-1) for the prepetition mortgage debt owed by the Debtor. The Claim sets forth a total secured Claim amount of \$75,433.49 and an arrearage of \$6,769.06.

2. The Debtor has filed an objection to Claim No. 2-1 asserting that Creditor's Attorneys fee in the prior Chapter 15 case are excessive and without value and that no accounting of payments was included in the claim.

**Attorney Fees:**

3. Entitlement to fees and costs incurred during the bankruptcy proceeding is a contractual right provided for in paragraphs 7 of the subject mortgage. (Please see copy of mortgage attached to Claim No. 2-1.) Further, as there is equity in the subject property, Attorney's fees and costs incurred in the Bankruptcy action are recoverable under 11 U.S.C. § 506. The only other issue that is involved in this part of the objection is the reasonableness of the fees.

4. The Fees incurred in this case and the previous Chapter 15 case are reasonable and consistent, if not low, when compared to the market rate of other Attorneys in the area.

5. As applicable to this case, Attorneys fees have been incurred as a result of the Proof of claim; the review and analysis of the Plan and if any amendments are filed; the

Objection to Confirmation of the Plan, etc. As applicable to the Chapter 15 case, Attorney fees have been incurred in connection with the Motion for Adequate Protection, initial Chapter 15 case review, Motion for Relief from Stay based on default in Adequate Protection Order, Motion to Employ Real Estate Broker, Motion to Compel Turnover of Property, attendance at multiple hearings and general representation in the Chapter 15 case, etc.

6. Lawyers at Kass Shuler, PA bill between \$250 per hour and \$350 per hour on hourly rate files depending on who is reviewing and working on the file. In the subject case, undersigned Counsel was billing at a rate of \$215.00 per hour.

7. The Chapter 15 case was pending from March 2016 through August 22, 2017 when the subject Chapter 13 case was filed.

8. The fees are reasonable and the Objection should be sustained as to this portion.

**Accounting of Payments Received:**

9. At the time the Chapter 15 case was filed, the account was current, but Debtor fell into default as of the June 1, 2016 payment and failed to pay the required taxes. The Court entered an Order on June 8, 2017 at Doc. No. 131 in Case No. 16-bk-02453 requiring Debtor to pay the contractual monthly payments beginning with the April 15, 2017 and requiring Debtor to pay an additional amount towards the arrears.

10. The payments received during the Chapter 15 case were applied and advanced the due date of the loan. Accordingly, Debtor was provided credit for the payments made during the Chapter 15 case. Specifically, the unpaid principal balance as of December 2, 2016 was \$70,988.64 per the Motion for Relief from Stay (Doc. No. 72 - Case No. 16-bk-02453). The unpaid principal balance as of the date of filing in the Chapter 13 case was \$68,508.23.

11. The Debtors' Objection should be overruled and the claim allowed as filed.

/s/ Nicole Mariani Noel  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT a true and correct copy of the foregoing was furnished on May 1, 2018, by U.S. Mail and/or electronic mail via CM/ECF pursuant to Local Rule 1001-2 to: Douglas Dixon and JoAnn Collison , 5811 Shady Oaks Lane , Naples, FL 34119; Melissa H Jeda 5278 Golden Gate Pkwy, Naples, FL 34116; Jon Waage, Trustee P.O. Box 25001, Bradenton, FL 34206-5001.

/s/ Nicole Mariani Noel  
Nicole Mariani Noel (x1343)

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